



TTAB

03-31-2003

U.S. Patent & TMO/TM Mail Rpt Dt. #30

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

COLGATE-PALMOLIVE COMPANY,

Opposer,

v.

MARBLE SPORTSWEAR, INC.

Applicant.

Opposition No. 91153718

APPLICANT'S ANSWER

03 APR -8 AM 9:30

Applicant, the owner of the mark FABUSA, Serial No. 78/056,616, in response to the Notice dated December 4, 2002, instituting the referenced opposition proceeding, answers the opposition as follows:

Applicant denies the allegation in the prefatory paragraph that opposer will be damaged by registration of the mark owned by Marble Sportswear, Inc. but admits that Application Serial No. 78/056,616, filed April 3, 2001 by Applicant, was published for opposition in the Official Gazette of July 16, 2002, page TM 362.

1. Applicant is without sufficient knowledge or information to form a belief as to the allegations of Paragraph 1 and accordingly denies the allegations.
2. Applicant admits that the marks listed are either registered or the subject of pending applications.
3. Applicant is without sufficient knowledge or information to form a belief as to the allegations of Paragraph 3 and accordingly denies the allegations.

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4. Applicant is without sufficient knowledge or information to form a belief as to the allegations of Paragraph 4 and accordingly denies the allegations.

5. Applicant is without sufficient knowledge or information to form a belief as to the allegations of Paragraph 5 and accordingly denies the allegations.

6. Applicant denies the allegations of Paragraph 6.

7. Applicant denies the allegations of Paragraph 7.

Applicant denies the allegation in the conclusion that the Opposer will be damaged by registration of Application Serial No. 78/056,616, but admits this Application is for International Classes 3,8,14 and 25.

Affirmative Defenses

8. Opposer has failed to allege grounds sufficient to establish its standing to maintain the present opposition proceeding.

WHEREFORE, Applicant prays for a judgment:

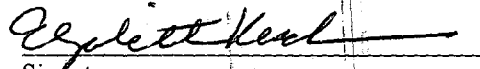
1. Dismissing the Opposition; and
2. Awarding such other relief as it may be entitled.

DATED: March 31, 2003

By: Elizabeth Keschner
Elizabeth Keschner
Attorney for Applicant
Marble Sportswear, Inc.
9465 Wilshire Boulevard
Suite 850
Beverly Hills, California
90210

CERTIFICATE OF MAILING UNDER 37 C.F.R. 1.10

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on March 31, 2003 in an envelope as "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10, Mailing Label No. ET5279B1447 US addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Box TTAB NO FEE, Arlington, Virginia 22202-3513.


Signature

March 31, 2003
Date

03-31-2003

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MARBLE SPORTSWEAR, INC.

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Opposition No. 91153718

ORDER TO SHOW CAUSE

Applicant, the owner of the mark FAB USA, Serial No. 78/056,616, in response to the Notice Of Default dated February 27, 2003, answers as follows:

The delay in filing the Answer to the subject opposition proceeding is not the result of willful conduct or gross neglect on the part of Applicant's attorney. In fact, Applicant's attorney did file an Answer for Opposition No. 91153974 - an Opposition proceeding which is virtually identical to the subject Opposition Action, the only difference being that the mark being opposed in this Action has a space between the two words.

Applicant's attorney had been on maternity leave at the time the Answer was due and had stopped receiving certain mails from her office towards the end of her maternity leave because a paralegal was overseeing the files and mails at the office.

Applicant does not believe that the Opposer will be substantially prejudiced by the delay because it has already received an Answer for the similar opposition proceeding and therefore, is on notice of Applicant's intention to defend this action.

Applicant, encloses herewith, an Answer, in duplicate, to this Opposition.

The Trademark Trial and Appeal Board must be mindful of the fact that it is the policy of law to decide cases on the merits and to resolve any doubt in favor of the defendant - in this case, the Applicant.

Based on the above, Applicant respectfully requests that it's Answer to this Opposition entered into the record.

DATED: March 21 2003

By: Elizabeth Keschner
Elizabeth Keschner
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Marble Sportswear, Inc.
9465 Wilshire Boulevard
Suite 850
Beverly Hills, California
90210

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Elizabeth Keschner
Signature
March 31, 2003
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